

REMARKS

In the Office Action, the Examiner rejected Claims 1, 10-20 and 22-30, which were all of the then pending claims, under 35 U.S.C. 103 as being unpatentable over the prior art. Specifically, Claims 1, 10-19, 22 and 25-28 were rejected as being unpatentable over U.S. Patent 6,041,316 (Allen); Claims 20, 23, 29 and 30 were rejected as being unpatentable over Allen in view of U.S. Patent 6,459,364 (Gupta); and Claim 24 was rejected as being unpatentable over Allen in view of U.S. patent application publication 2002/0081229 (Boyd, et al.).

The Examiner further rejected Claims 22-30 under 35 U.S.C. 112, first paragraph, as not complying with the written description requirement, and Claims 20, 23, 24, 26 and 28-30 were further rejected under 35 U.S.C. 112, first paragraph, as not complying with the enablement requirement. Also, the Examiner noted, and requested correction of, informalities in Claims 10 and 14.

For the reasons discussed below, the rejections of the claims under 35 U.S.C. 103 and 112 are respectfully traversed. In order to correct the informalities noted by the Examiner, minor editorial changes are being made to Claims 10 and 14. Also, new independent Claim 31 is being added to present an independent claim of intermediate scope.

The present invention, generally, relates to methods and systems to encourage users to purchase software applications after they have been provided with a demonstration or trial version. In accordance with the invention, after the user receives the trial or demonstration

version, the performance of that trial or demonstration version is gradually diminished over time. As the application performance is being reduced, the user is able to continue using the trial or demonstration version of the application and can become reliant thereon. At the same time, the user's desire to have the full performance of the application causes him or her to purchase the product.

Various specific ways may be used to diminish the performance or appearance of the computer application. For instance, this may be done by degrading a network bandwidth, by degrading the processing speed, by producing tactile stimulus such as vibrations, or by producing unpleasant olfactory stimulus.

Claim 1 specifically describes diminishing the system performance by degrading the network bandwidth. Claims 22-30, which are all dependent from Claim 1, describe other ways to diminish the system performance. For instance, Claim 22 describes degrading the processing speed, and Claim 23 describe producing tactile stimulus.

The Examiner noted in the Office Action that the specification discloses the features expressly described in each of Claims 1 and 22-30. The Examiner, however, argued that the specification does not describe that both the feature of Claim 1 and the feature of any of Claims 22-30 are done together. For this reason, the Examiner rejected Claims 22-30 under 35 U.S.C. 112 as not meeting the written description requirement.

This rejection is respectfully traversed. As the Examiner has observed, the specification clearly discloses all the features described in Claims 1 and 22-30. Those of ordinary skill in the art would, from a reading of the specification, recognize that the present invention contemplates that many of these procedures could, if desired, be done together. For example, on page 3, lines 4 and 5, and on page 4, lines 9 and 10, it is expressly indicated that the software program may degrade or be degraded "in any one or more of a number of ways." Clearly this statement shows that the written description of the invention includes using more than one way to degrade the software program.

In view of this express teaching of the application, as well as what would be apparent from a reading of the application as a whole, those of ordinary skill in the art would understand that the present application describes that each of the procedures of Claims 22-30 can be used with the procedure of Claim 1. Claims 22-30 thus comply with the written description requirement of 35 U.S.C. 112, and the Examiner is respectfully requested to reconsider and to withdraw the rejection of Claims 22-30 as not complying with this written description requirement.

The Examiner, in the Office Action, also argued that the specification does not enable the subject matters of Claims 20, 23, 24, 26 and 28, and thus rejected these claims, and Claims 29 and 30, which are dependent from Claim 20, as not complying with the enablement requirement of 35 U.S.C. 112, first paragraph. This rejection is also respectfully traversed because those of ordinary skill in the art, given the teachings of the present application, would

be able, without undue experimentation, to implement the subject matters of Claims 20, 23, 24, 26 and 28.

More specifically, Claims 20, 23, 26 and 28 refer to producing tactile stimuli. The Examiner, in the Office Action, argued that ordinary computers do not have the capacity to produce tactile stimulus, and that the present application does not describe special computers to do this.

Applicants agree that ordinary computers do not have the capacity to produce tactile stimuli, as described in Claims 20, 23, 26 and 28. However, those of ordinary skill in the art would be able to modify computers to do this. Mechanisms to produce tactile stimulus are, per se, known, and those of ordinary skill in the art would be able to modify computers to operate mechanism for producing tactile stimulus. It may be helpful to note that the claims do not require any specific type of tactile stimuli, that this stimuli be produced in any particular way, or that any specific mechanism be used. It is only necessary that tactile stimuli be produce, in some operable way, in the manner described in the claims. And those of ordinary skill in the art can do this.

For similar reasons, Claim 24 also satisfies the enablement requirement. Specifically, this claim requires means to produce unpleasant olfactory stimuli. Applicants agree with the Examiner that ordinary computers do not operate in this way. However, modifying a computer to operate in this way can be done, without undue difficulty, by those of ordinary skill in the art. It is important to recognize that Claim 24 does not require that the olfactory

stimulus be provided in any specific manner or by any specific procedure. It is only necessary that a computer be modified so that it is operable to produce unpleasant olfactory stimulus in some suitable way using some suitable mechanism. And, here too, those of ordinary skill in the art can do this.

In light of the above-discussion, Claims 20, 23, 24, 26 and 28 are appropriately enabled by the specification, and the Examiner is thus respectfully asked to reconsider and to withdraw the rejection of Claims 20, 23, 24, 26, 28, 29 and 30 as not meeting the enablement requirement of 35 U.S.C. 112, first paragraph.

The rejections of the claims under 35 U.S.C. 103 are also respectfully traversed.

Allen discloses procedures for delivering data over a communications network in a manner that encourages users to pay royalties for the use of the data. This is done by providing the user with a partially degraded version of a product, without requiring any payment of a royalty fee; and then, providing a higher quality version of the product if the user pays the appropriate fees. Allen, from column 7, line 47 to column 8, line 57, describes several ways to partially degrade the product. For instance, the product may be degraded by filtering out major or key portions of the data, or by adding noise. Also, one or more portions of the data could be encrypted.

There are several important differences between the preferred embodiment of the present invention and process disclosed in Allen. With the latter procedure, the user is

initially provided with a program that is partially degraded, while with the procedure of the present invention, the user is initially provided with an undegraded program, and that program is then degraded over time.

In addition, there are a number of important additional, differences between Allen and various claims of this application. For instance, with respect to Claims 1 and 17, Allen does not disclose or suggest the feature of degrading the network bandwidth, as described in Claims 1 and 17, and which allows full use of the computer application, but at a slower speed. The user is not denied any functionality. The user can fully complete any projects, and the user is not left in a situation where an unfinished project cannot be completed. At the same time, the user is provided with a clear incentive to purchase the computer application.

Likewise, Allen does not disclose or suggest the reduced processing speed, described in Claim 14, and the tactile stimulus described in Claim 20, and which allow full functionality of the computer application while also providing an incentive to purchase the application. Here also, because of the difference in kind between the features described in Claims 14 and 20 and the type of features described in Allen, these claims would not have been obvious to those of ordinary skill in the art.

Similar reasoning supports the non-obviousness of the "unpleasant olfactory stimulus" described in Claim 24. Indeed, it is respectfully submitted that such a stimulus is counter-intuitive. One of ordinary skill in the art would not normally consider designing a program that produces such a stimulus. Thus, it would not have been obvious to one of ordinary skill

in the art to do this. The teachings of the present application, however, show why that is useful under certain circumstances.

In order to address the deficiencies of Allen as a reference, the Examiner relies on Gupta to support the rejection of Claims 20, 23, 29 and 30, and on Boyd, et al. to support the rejection of Claim 24. Applicants respectfully submit, however, that even the combination of these references does not render these claims obvious to one of ordinary skill in the art.

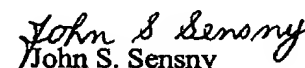
Gupta discloses an internet browser that has tactile elements, and Boyd, et al. discloses a scent storage device. Neither of these references, though, suggest using these features for the purpose of degrading a trial or demonstration version of a computer program, as described in the claims of the present application. What is important, Applicants respectfully submit, is not simply that the present invention uses certain processes, but that it uses these processes to perform certain functions – degrading or diminishing the performance of a trial or demonstration version of a computer program to encourage users to purchase that program – and this, neither Gupta nor Boyd, et al. teaches.

In view of the above-discussed differences between Claims 1, 14, 17, 20 and 24 and the prior art, and because of the advantages associated with those differences, these claims patentably distinguish over the prior art and are allowable. Claims 10-13 and 22-24 are dependent from Claim 1 and are allowable therewith; and Claims 15, 16, 25 and 26 are dependent from, and are allowable with, Claim 14. Similarly, Claims 18, 19, 27 and 28 are dependent from Claim 17 and are allowable therewith; and Claims 29 and 30 are dependent

from Claim 20 and are allowable therewith. The Examiner is, accordingly, asked to reconsider and to withdraw the rejection of Claims 1, 10-20 and 22-30 under 35 U.S.C. §103, and to allow these claims and new Claim 31.

For the reasons set forth above, the Examiner is asked to reconsider and to withdraw the objections to Claims 10, 14, 15, 16, 25 and 25, the rejection of Claims 22-30 as not complying with the written description requirement of 35 U.S.C. 112, first paragraph. The Examiner is also requested to reconsider and to withdraw the rejection of Claims 20, 23, 24, 26 and 28-30 as not meeting the enablement requirement of 35 U.S.C. 112, first paragraph, and the rejections of Claims 1, 10-20 and 22-30 under 35 U.S.C. 103, and to allow these claims and new Claim 31. If the Examiner believes that a telephone conference with Applicants' Attorneys would be advantageous to the disposition of this case, the Examiner is requested to telephone the undersigned.

Respectfully submitted,


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